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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,854	07/14/2003	Chih-Ching Hsien	PUSA030601	9142

7590

10/26/2004

Chih-Ching Hsien
58 MA YUAN WEST ST.
TAICHUNG,
TAIWAN

EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/620,854

Applicant(s)

HSIEN, CHIH-CHING

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-9 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 8, lines 4-5, "zones...is formed..." is ungrammatical.

In claim 9, line 3, "the user" and "the hand tool" lack antecedent basis. In lines 3-4, "by the color of each of the size indication zones" lacks antecedent basis.

- In claim 12, line 2, "the hollow portion" lacks antecedent basis from parent claim
- 1.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammer et al. (5,409,560). Disclosed is a tool box tray structure comprising molded recesses (R, and formed partially from molded foam material), the molded recesses each including a first layer (12) and a second layer (14 or L) bonded on the first layer,

the layers being different materials and inherently of different colors or provided expressly of different colors (see column 5, lines 17-34).

As to claim 2, disclosed is a one-color tray (D) and a colored plate (12 and 14 together and with L) of differing materials and inherently contrasting colors.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammer et al.. As to claims 3 and 10, Hammer et al. discloses employing plastic material in general, the selection of PET not seen as providing any new and unexpected result from its selection.

As to claims 11 and 12, the hollow portion of first layer 12 is connected to the second layer and formed throughout layer 12.

7. Claims 1-3 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (3,804,238) in view of Hammer et al.. Howard discloses a tool box tray structure comprising molded recesses (32-42), the molded recesses each including a first layer, with different colors provided to distinguish the compartments. Hammer et al. discloses providing an additional layer (L) to differ the color to provide indication relative

to tools. To modify the tool box tray structure of Howard employing the additional layer teaching of Hammer et al. by adding the layer L only or incorporating all layers (12, 14 and L) would have been obvious in order to provide color indication relative to the tools, as suggested by both of the references.

As to claim 2, Hammer et al. discloses providing a colored plate (12 and 14).

As to claims 3 and 10, Hammer et al. discloses employing plastic materials in general, the selection of PET not seen as providing any new and unexpected result from its selection.

As to claims 11 and 12, the hollow portion of the single layer recess of Howard is connected to the added second layer or layers and formed throughout the first layer.

8. Claims 4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Roraback Jr. et al. (5,482,159). Roraback Jr. et al. disclose employing size indication zones relative to tools (see column 3, line 61 through column 4, line 4) on a tray structure. To modify the prior art further employing size indication zones as taught by Roraback Jr. et al. would have been obvious in order to provide size information relative to the tools. The size and color are disclosed to be coded together.

9. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 4 above, and further in view of Levey et al. (3,370,697). Levey et al. disclose a tool box tray structure including molded recesses to receive a screwdriver

handle (19) and screwdriver shanks (18). To further modify the tool box tray structure to be specifically for a screwdriver handle and screwdriver shanks would have been obvious, as once tools in general are disclosed, to employ any particular tool or tools would have been within the level of ordinary skill in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is presently (703) 605-1174 and effective November 9, 2004, becomes (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached presently on (703) 308-2672 and after November 9, 2004 on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555 effective November 8, 2004.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name "Bryon" being more prominent than the last name "Gehman".

Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG